

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TROY X. KELLEY,

Defendant.

CASE NO. CR15-5198RBL

ORDER ON MOTION TO COMPEL

THIS MATTER is before the Court on Defendant Kelley's Motion to Compel documents withheld by non-party Fidelity. Fidelity has produced a privilege log to Kelley and to the Court. A color-coded version of that log is attached to the Motion. Fidelity has also provided the Court with digital versions of the documents withheld, along with letter to the court explaining the manner in which its documents were logged and withheld. It does not appear that the explanation letter was shared with the defense, and a copy is attached to this Order.

The court has reviewed the documents *in camera*. The documents highlighted in *red* on the privilege log have since been produced, save one: REL...6261.0001. That document is not privileged and should be produced.

1 As Fidelity explains, most or all of the remaining disputed documents (highlighted in
2 yellow and green on the log) consist of a privileged communication enclosing or attaching non-
3 privileged documents or emails. It appears that the bulk of these non-privileged attachments have
4 already been produced, and many are duplicated in the documents listed in the log. Nevertheless,
5 they are not themselves privileged and they **should be produced**¹. These documents include:

6 REL...05974.0001 to .0005

7 REL...05974.0005.0001

8 REL...05974.0005.0001.0001

9 REL...05997.0001 to .0005

10 REL...07665.0001 to .0005

11 REL...07665.0002

12 REL...07665.0003

13 REL...07665.0004

14 REL...07665.0005

15 REL...08288

16 REL...09264.0001

17 REL...09264.0002

18 REL...09264.0003

19 REL...09264.0004

20 REL...09264.0005

21 REL...09883.0001

23 ¹ Fidelity's claim of privilege with respect to the communication enclosing the non-privileged documents is correct.
24 See for example REL...14251. The attachments to that communication (and many others), with ".000x" extensions,
are discoverable.

1	REL...13746.0001
2	REL...13746.0001.0001
3	REL...13746.0001.0002
4	REL...13746.0002
5	REL...13746.0003
6	REL...13746.0003.0001
7	REL...13746.0003.0002
8	REL...13746.0004 <i>to</i> .0011
9	REL...13761.0011.0001
10	REL...13761.0011.0001.0001
11	REL...13761.0011.0001.0002
12	REL...13768.0001.0001
13	REL...13768.0001.0002
14	REL...13768.0011.0001
15	REL...13768.0011.0001.0001
16	REL...13768.0011.0001.0002
17	REL...13812.0001
18	REL...13812.0002
19	REL...13816.0001
20	REL...13824.0001
21	REL...13928.0001
22	REL...13928.0002
23	REL...13944.0001 <i>to</i> .0042
24	

REL...13991.0001

REL...13991.0001.0001

REL...13991.0002

REL...13991.0002.0001

REL...13991.0002.0001.0001

REL...13991.0002.0001.0002

REL...14225.0001

REL...14233.0001 *to* .0005

REL...14237.0001 *to* .0003

REL...14251.0001

REL...14251.0002

REL...14251.0002.0001

REL...14251.0003

REL...14251.0003.0001

REL...14251.0003.0001.0001 *and* -.0002

REL...14251.0004

REL...14311.0001 *to* .0003

REL...14330.0001 *and* .0002

REL...14786.0001

REL...14812.0001

Finally, some of the documents identified in the log were not actually produced for *in camera* review. These include:

REL...13746.0004.0001

1 REL...13778.0002

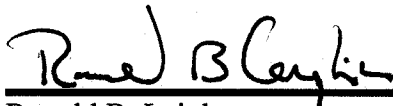
2 REL...13779

3 REL...13787.0001

4 These documents should either be produced to the court, or, if the parties can agree,
5 produced in the same manner as the communications and attachments above.

6 IT IS SO ORDERED.

7 Dated this 20th day of November, 2017

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10 Ronald B. Leighton
11 United States District Judge
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